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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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INDIA: Omnipresent corruption affects all

1. There is not a single state run institution in India that has not succumbed to corrupt practices. Right from the four pillars of democracy – the executive, the judiciary, the legislature, and the media – all public institutions in India are riddled with corruption. Widespread corruption directly impacts the lives of a majority of Indians.

2. While corruption affects all, the worst affected are poor Indians, who comprise 312 million out of a 1.2 billion population. This is because the poor in India depend mostly on state run schemes like public food distribution and free medical care, examples of two programmes mired in corruption.

3. India is ranked amongst the most corrupt countries in the world, sharing this dais with some of the least developed economies. One in every five poor persons in the world lives in India; the role of corruption in this statistic is central. With corruption characterizing the functioning of all aspects of the state, the social consequences are devastating. Yet, India's national policy is to have no policy to combat corruption.

4. Budgetary allocations in India are skewed at the planning stage itself due to decades of non-transparent, uncompetitive, and totally corrupt public procurement policies and practices at the union and state level. And, even the limited funds that end up allocated for education, health, entitlement, and subsistence schemes – i.e. programmes that serve as a lifeline for the poorest of the poor – are diverted, embezzled, and looted at various stages of implementation.

5. National programmes formulated and implemented to address abject poverty like the Mahatma Gandhi National Rural Employment Programme and the National Rural Health Mission are examples of programmes that have failed to deliver their mandate due to widespread corruption in implementation. Both programmes, if meticulously implemented, have the potential to address abject poverty and usher a brighter future for millions of Indians. Corruption-led failures in their implementation have contributed to widespread malnutrition and starvation among Indian children, creating conditions worse than those in some sub Saharan African countries.

6. Institutions supposed to address corruption, such as the judiciary, the prosecution, and the specialized investigative apparatuses, are all corrupt. Corruption thrives in a non-transparent Indian judiciary to such an extent that a substantial number of former Supreme Court judges, including Chief Justices, have been openly accused of corruption, with damning documentary evidence available in the public domain. Yet, virtually none of these judges and their corrupt actions has been investigated. The morale of the judiciary is such that former Supreme Court judges have sold their offices for sexual gratification.

7. Even the claims used as qualifiers and excuses by those in seats of power, such as 'only 20 percent of judges of the higher judiciary in India are corrupt', i.e. that there only a few 'bad apples', implies that the Indian judiciary is corrupt. The judiciary is an institution to which absolutes apply; either the judiciary is corrupt or it is not corrupt. This argument follows from the fact that the fundamental human rights of an individual are absolute and are not qualified by the integrity of a judge or that of an institution represented by a judge.

8. The specialized agency constituted to investigate corruption in India, the Central Bureau of Investigation (CBI) established by the Delhi Special Police Establishment Act, 1946, is perceived to be corrupt. Every political party that has formed a government in India has used the CBI to settle its vendettas. Corruption in the CBI exceeds illegal gratification in cash and kind in return for pursuing or stalling investigations or proceedings. It consists of a variety of policies, decisions, action, and inaction that relate to the discharging of duties of the country's premier investigating agency.

9. Corruption is what decides whether, at the local level, a police officer should accept a complaint regarding a commission of a crime or not. Corruption dictates the contours of the investigation in its entirety, in that a crime investigation is a commodity that can be purchased by the rich and politically influential. Persons who commit crimes can either escape detection or avoid punishment by bribing the investigating officer.

10. Officers are corrupt irrespective of their rank. Corruption in the police begins with the induction of the officer; vacancies are filled at the whims of the ruling political party, with politicians at all levels including ministers and their

cronies demanding and accepting bribes for such appointments. Once inducted, the officer begins extorting his beat to pay-off what is, in essence, an investment.

11. Similar scenarios, with regional variations, mark all manners of government appointments in India, from schoolteachers to doctors, who then find novel ways for a return on investment. Students have to bribe their way into colleges. It infects administrative positions, from the junior most positions to the highest posts in government, with transfers and postings routinely bought and sold. The cumulative social impact of the decisions made by so many compromised officers on so many citizens is astounding.

12. Omnipresent corruption in India and the unwillingness of the Indian state to deal with it is demonstrated from the fact that around two thirds of Indian parliamentarians are known to be extremely corrupt individuals. The newly elected parliament does not show any change in the trend. Policies that these parliamentarians create and the legislations that they pass and stymie serve to preserve their privilege of being able to sit in Parliament while being deeply corrupt. Hence, maintaining the status quo, allowing the evil of corruption to remain widespread, is the Indian state's policy for dealing with corruption.

13. Widespread corruption and state policies being decided to foster corrupt means has allowed private entities, like business houses and international corporations, to literally buy the Indian parliament and India's bureaucracy, in order to advance their interests. The immediate casualty of this is the rights and entitlements of the Indian people, especially the poor and the marginalized. Corruption has facilitated widespread and horrendous exploitation of national resources and has resulted in massive displacement of citizens. It is common to find people so displaced, for the implementation of a project that benefits a private entity, being subsequently displaced three or four times more for other such projects. This has created millions in India who remain perpetually displaced and uncompensated, across generations.

14. The practice of corruption and the concept of democracy are mutually opposing. Corruption has weakened India's democracy and harmed the security of its people. Indians have witnessed their policy makers sell the country's sovereignty and security for private benefit. It is a shame that none of these criminals have been adequately punished. The norm is such that the higher the degree of ill-gotten wealth a person makes through corrupt means, the lower the possibility of their being punished for such crimes. Analyzed from this position, neither does the practice of the rule of law exist in India, and nor does the country have the possibility to deal with corruption appropriately. India has ratified the International Convention against Corruption as early as in 2011. However, it is not expected that India will do anything to combat corruption anytime in the near future.

15. The decision to end corruption is a political one, which India will have to make. While the ratification of an international convention that specifically addresses corruption is a positive step, India, unfortunately, lacks all the other tools necessary to combat corruption at a domestic level. That an important country like India is literally being ruled by corruption and by corrupt means has had an adverse impact on the region and the globe. India's policy commitments in the development and nurturing of universal human rights norms are deeply and adversely affected by the Indian state's policy of maintaining an environment for corrupt governments to thrive at the domestic level. What India cannot guarantee and fulfil for its own people, the country cannot contribute in promoting elsewhere in the world.